

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
DEL RIO DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>NO. DR22-CR-01449-AM</b>
	)	
<b>TERRY DEAN ANDERSON, JR,</b>	)	
	)	
<b>Defendant.</b>	)	

**GOVERNMENT’S RESPONSE TO DEFENDANT’S SECOND MOTION TO DISMISS  
THE INDICTMENT**

TO THE HONORABLE ALIA MOSES:

Defendant Terry Dean Anderson, Jr. has filed a second motion to dismiss the indictment. (ECF 98). However, the Court has not yet ruled on Defendant’s first motion to dismiss the indictment. (ECF 32, 34, 38, 39, 50, 61). Therefore, this motion should be denied as not ripe for adjudication.

Further, it appears Defendant intended to respond to a specific point the government raised in its surresponse to Defendant’s first motion to dismiss by pointing out the recent decision in supplement by *Range v. Attorney General United States of America*, 69 F.4th 96 (3rd Cir. 2023) (*en banc*). The government originally referenced *Range v. Attorney General United States*, 53 F.4th 262 (3rd Cir. 2022), a decision made by a panel of the 3rd Circuit. Presumably, Defendant now cites the en banc decision of the court to rebut the government’s point raised in its surresponse. However, the government only raised the original panel opinion in *Range* in its surresponse for the purposes of apprising the Court of persuasive authorities from other circuits. While the case no longer supports the government’s position, the case was never intended by the government as

a lynchpin of authority supporting its argument. This Court is not bound by *Range*, and the en banc decision, while no longer supportive of the government's position, is nonetheless not fatal to the government's argument. For the purposes of this second motion, the government adopts the arguments put forth in its response to Defendant's first motion filed on November 1, 2022, and respectfully requests that the government response apply to this new motion by Defendant, filed on April 9, 2024.

Respectfully submitted,

JAIME ESPARZA  
United States Attorney

//s//  
JOSHUA JEROME GARLAND  
Assistant United States Attorney

**Certificate of Service**

I hereby certify that on April 10, 2024, a true and correct copy of the foregoing instrument was electronically filed with the Clerk of the Court using the CM/ECF System which will transmit notification of such filing to all parties.

//s//

JOSHUA JEROME GARLAND  
Assistant United States Attorney